

STATE OF MISSISSIPPI
IN THE CIRCUIT COURT OF PEARL RIVER COUNTY, MISSISSIPPI

I, **VICKIE P. HARIEL**, Clerk of the Circuit Court of Pearl River County, Mississippi, do
hereby certify that the above and foregoing constitutes a true and correct copy of **CAUSE NO.**

2013-0212H styled:

MARILYN FORTENBERRY

PLAINTIFF

VS.

CAUSE NO. 2013-0212H

WAL-MART STORES INC

DEFENDANT

CONTAINING:

11/21/13 COMPLAINT

as the same now appears on file in the Office of the Circuit Clerk of Pearl River County,
Mississippi. And I further certify that said Circuit Court is a Court of Record with an official
seal, and that I, as Clerk of said Circuit Court, am the custodian of the records and of the seal of
said Court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this
said Court, at the **CITY OF POPLARVILLE**, on this the 13TH DAY OF DECEMBER, in the
year of Our LORD, Two Thousand Thirteen.

Vickie P. Hariel by Debra
CLERK OF THE CIRCUIT COURT OF
PEARL RIVER COUNTY, MISSISSIPPI *Bowman, DC*

IN THE CIRCUIT COURT OF PEARL RIVER COUNTY

STATE OF MISSISSIPPI

MARILYN FORTENBERRY **FILED**

PLAINTIFF

VERSUS

NOV 21 2013

CAUSE NO. 2013-02124

WAL-MART STORES, INC.

VICKIE R. HARRIS, CLERK
D.C.

DEFENDANT

COMPLAINT

The Complaint of Marilyn Fortenberry, a person of the full age of majority and a resident of the County of Pearl River, respectfully represents:

1.

Defendant, Wal-Mart Stores, Inc., is a foreign corporation authorized to do and doing business in the County of Pearl River; and at all times mentioned herein was the owner and operator of the Wal-Mart store located in Picayune, MS.

2.

On or about February 2, 2013 complainant, Marilyn Fortenberry, was a customer at the Wal-Mart store located in Picayune, MS, County of Pearl River. As complainant was walking in the garden center suddenly and without warning she collided with an unmarked protruding piece of lumbar.

3.

Complainant avers that the proximate cause of this accident was the negligence of the defendant, Wal-Mart Stores, Inc., its agent, employees and representatives, in the following regards:

- (a) Failing to mark this protruding lumbar so customers, such as

complainant, would not walk into it;

- (b) Failing to warn customers, such as complainant, of this dangerous area;
- (c) Failing to regularly inspect and correct any deficiencies to its garden center;
- (d) Failing to notice the imminence of an accident and taking steps to avoid same;
- (e) Any and all acts of negligence which may be proven at a trial on the merits.

4.

As a result of this accident complainant, Marilyn Fortenberry, sustained a serious right lower extremity injury for which she has received treatment, including two (2) surgeries, by several healthcare providers. In addition to her physical injuries complainant has also sustained medical expenses, mental anguish, lost earnings/earning capacity/employment benefits and a diminishment in her capacity to enjoy life as a result of this accident.

5.

Complainant itemizes her damages as follows:

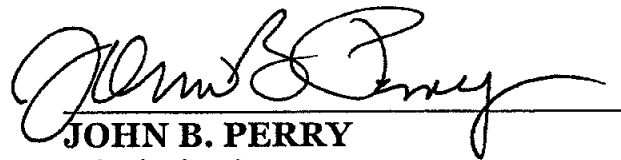
- | | | |
|-----|---|---------------|
| (a) | Physical Pain and Suffering
Past, Present and Future | \$ 100,000.00 |
| (b) | Mental Anguish
Past, Present and Future | 25,000.00 |
| (c) | Medicals
Past, Present and Future | 55,000.00 |
| (d) | Lost Earnings/Earning Capacity/
Employment Benefits | 5,000.00 |

(e) Loss of Enjoyment of Life Past, Present and Future	<u>50,000.00</u>
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Total:	\$235,000.00
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WHEREFORE, complainant prays that the defendant be served with a copy of this complaint and cited to answer same and that after all legal delays and due proceedings be had, there be judgment herein in favor of complainant, Marilyn Fortenberry, for the full and true sum of TWO HUNDRED THIRTY-FIVE THOUSAND AND NO/100 (\$235,000.00) DOLLARS, together with applicable legal interest, and all costs of these proceedings, and against the defendant, Wal-Mart Stores, Inc.

Respectfully submitted,



JOHN B. PERRY

Mississippi Bar No. 4133

103 Smart Place

Suite 1

Slidell, Louisiana 70458

Telephone : (985) 639-0207

Facsimile : (985) 639-1504

Attorney for Complainant,

Marilyn Fortenberry

PLEASE SERVE:

WAL-MART STORES, INC.

Through its agent for service of process:

C T CORPORATION SYSTEMS

645 Lakeland East Drive

Suite 101

Flowood, MS 39232

COVER SHEET Civil Case Filing Form <i>(To be completed by Attorney/Party Prior to Filing of Pleading)</i>		Court Identification Docket Number <div style="border: 1px solid black; display: inline-block; padding: 2px;">55</div> <div style="border: 1px solid black; display: inline-block; padding: 2px;">CI</div>	Case Year <div style="border: 1px solid black; display: inline-block; padding: 2px;">2013</div>	Docket Number <div style="border: 1px solid black; display: inline-block; padding: 2px;">0212H</div>
Mississippi Supreme Court Administrative Office of Courts	Form AOC/01 (Revised 5/11/2000)	County # <div style="border: 1px solid black; display: inline-block; padding: 2px;">112113</div>	Judicial District Court ID (CH, CI, CO)	Local Docket ID <div style="border: 1px solid black; display: inline-block; width: 40px; height: 20px;"></div>
In the <u>Circuit</u> Court of <u>Pearl River</u> County		Short Style of Case: <u>Marilyn Fortenberry v. Wal-Mart Stores, Inc.</u>		
Party Filing Initial Pleading: Type/Print Name <u>John B. Perry, Esq.</u>		MS Bar No. <u>4133</u>		
Check (✓) if Not an Attorney <input type="checkbox"/>		Check (✓) if Pro Hac Vice Signature <input type="checkbox"/>		
Compensatory Damages Sought: _____		Punitive Damages Sought: _____		
Is Child Support contemplated as an issue in this suit? <input type="checkbox"/> Yes <input type="checkbox"/> No				
If "yes" is checked, please submit a completed Child Support Information Sheet with Final Decree/Judgment				
PLAINTIFF - PARTY(IES) INITIALLY BRINGING SUIT SHOULD BE ENTERED FIRST (FIRST NAME IN SHORT STYLE) - ENTER ADDITIONAL PLAINTIFFS ON SEPARATE FORM				
Individual <u>Fortenberry</u> <u>Marilyn</u>				
Address of Plaintiff <u>5412 Highway 43 N, Carriere, MS 39426</u>				
Check (✓) if Individual Plaintiff is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____				
Check (✓) if Individual Plaintiff is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: _____				
Business _____				
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate state where incorporated				
Check (✓) if Business Plaintiff is filing suit in the name of an entity other than the above, and enter below: _____				
DEFENDANT - NAME OF DEFENDANT (FIRST NAME IN SHORT STYLE) - ENTER ADDITIONAL DEFENDANTS ON SEPARATE FORM				
Individual _____				
Check (✓) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____				
Check (✓) if Individual Defendant is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: _____				
Business <u>Wal-Mart Stores, Inc.</u>				
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate state where incorporated				
Check (✓) if Business Defendant is filing suit in the name of an entity other than the above, and enter below: _____				
ATTORNEY FOR THIS DEFENDANT: _____ Bar No. Or Name: _____ Pro Hac Vice (✓) _____				
In left hand column, check one (1) box that best describes the nature of this suit. In right hand column check all boxes which indicate secondary claims.				
Business/Commercial <input type="checkbox"/> Accounting (Business) <input type="checkbox"/> Bankruptcy <input type="checkbox"/> Business Dissolution - Corporation <input type="checkbox"/> Business Dissolution - Partnership <input type="checkbox"/> Debt Collection <input type="checkbox"/> Employment <input type="checkbox"/> Examination of Debtor <input type="checkbox"/> Execution <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Pension <input type="checkbox"/> Receivership <input type="checkbox"/> Replevin <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other _____	Probate <input type="checkbox"/> Accounting (Probate) <input type="checkbox"/> Birth Certificate Correction <input type="checkbox"/> Commitment <input type="checkbox"/> Conservatorship <input type="checkbox"/> Guardianship <input type="checkbox"/> Heirship <input type="checkbox"/> Intestate Estate <input type="checkbox"/> Minor's Settlement <input type="checkbox"/> Muniment of Title <input type="checkbox"/> Name Change <input type="checkbox"/> Power of Attorney <input type="checkbox"/> Testate Estate <input type="checkbox"/> Will Contest <input type="checkbox"/> Other _____	Torts-Personal Injury <input type="checkbox"/> Bad Faith <input type="checkbox"/> Fraud <input type="checkbox"/> Loss of Consortium <input type="checkbox"/> Malpractice - Legal <input checked="" type="checkbox"/> Malpractice - Medical <input type="checkbox"/> Negligence - General <input type="checkbox"/> Negligence - Motor Vehicle <input type="checkbox"/> Products Liability <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Other _____		
Domestic Relations <input type="checkbox"/> Child Custody/Visitation <input type="checkbox"/> Child Support <input type="checkbox"/> Contempt <input type="checkbox"/> Divorce: Fault <input type="checkbox"/> Divorce: Irreconcilable Differences <input type="checkbox"/> Domestic Abuse <input type="checkbox"/> Emancipation <input type="checkbox"/> Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Property Division <input type="checkbox"/> Separate Maintenance <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> UIFSA (formerly URESA) <input type="checkbox"/> Other _____	Statutes/Rules <input type="checkbox"/> Bond Validation <input type="checkbox"/> Civil Forfeiture <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> ERISA <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Extraordinary Writ <input type="checkbox"/> Federal Statutes <input type="checkbox"/> Injunction or Restraining Order <input type="checkbox"/> Municipal Annexation <input type="checkbox"/> Racketeering (RICO) <input type="checkbox"/> Railroad <input type="checkbox"/> Seaman <input type="checkbox"/> Other _____	Mass Tort <input type="checkbox"/> Asbestos <input type="checkbox"/> Chemical Spill <input type="checkbox"/> Dioxin <input type="checkbox"/> Hand/Arm Vibration <input type="checkbox"/> Hearing Loss <input type="checkbox"/> Radioactive Materials <input type="checkbox"/> Other _____		
Contract <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Installment Contract <input type="checkbox"/> Insurance <input type="checkbox"/> Product Liability under Contract <input type="checkbox"/> Specific Performance <input type="checkbox"/> Other _____	Appeals <input type="checkbox"/> Administrative Agency <input type="checkbox"/> County Court <input type="checkbox"/> Hardship Petition (Driver License) <input type="checkbox"/> Justice Court <input type="checkbox"/> MS Employment Security Comm'n <input type="checkbox"/> Municipal Court <input type="checkbox"/> Oil & Gas Board <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other _____	Real Property <input type="checkbox"/> Adverse Possession <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Lien Assertion <input type="checkbox"/> Partition <input type="checkbox"/> Receiver Appointment <input type="checkbox"/> Tax Sale: Confirmation/Cancellation <input type="checkbox"/> Title, Boundary &/or Easement <input type="checkbox"/> Other _____		
Children and Minors - Non-Domestic <input type="checkbox"/> Adoption - Noncontested <input type="checkbox"/> Consent to Abortion for Minor <input type="checkbox"/> Removal of Minority			Civil Rights <input type="checkbox"/> Elections <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Post Conviction Relief <input type="checkbox"/> Prisoner <input type="checkbox"/> Other _____	